

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of the Commission's Part 90 Rules in)	WT Docket No. 06-49
The 904-909.75 and 919.75-928 MHz Bands)	
)	

To: The Commission

COMMENTS OF TELETRAC, INC.

Teletrac, Inc. and its wholly owned subsidiary Teletrac License, Inc. (jointly, "Teletrac"), by their attorney, hereby submit comments in response to the above-captioned Notice of Proposed Rule Making released by the Commission on March 1, 2006 in WT Docket No. 06-49. Teletrac holds grandfathered site-based multilateration Location and Monitoring Service ("M-LMS") licenses and for more than a decade has been providing M-LMS service in Chicago, Dallas, Detroit, Houston, Los Angeles, and San Diego. As the Commission pointed out in the Notice, Teletrac and Ituran, which operates an M-LMS system in Miami that it acquired from Teletrac, are the only M-LMS licensees thus far that are providing service to the public in the M-LMS spectrum. Teletrac's successful operation of a multi-market M-LMS service for many years shows that the Commission's existing M-LMS policies continue to provide the framework for a valuable radio service to the public. As the Commission now considers whether to create a very different service in response to the expressed needs of geographic licensees with yet-unbuilt systems, the Commission should not neglect the concrete achievements of its long-standing M-LMS policies by adopting rules that harm existing service providers.

I. The Commission Should Permit Existing M-LMS Service Providers to Elect to Be Governed by the Commission's Present Service Rules.

For more than a decade, Teletrac has provided M-LMS service under the Commission's present service rules as a grandfathered site-based licensee. Now, the Commission has proposed major changes to its M-LMS rules that would require different equipment and service configurations and would make fundamental changes in the definition and purpose of the M-LMS service itself. Indeed, what the Commission proposes effectively amounts to an entirely different service with the same name. Whatever changes the Commission may make on a going-forward basis to revamp the M-LMS service, Teletrac urges the Commission to provide specifically that existing M-LMS licensees with site-based licenses will continue to be governed by present rules, including existing service restrictions, unless and until a licensee elects by written filing to the Commission to be subject to any new regulatory regime that the Commission may adopt in this proceeding. This approach would serve the public interest in allowing the continuation of a useful, existing, and long-established niche service that addresses critical needs of business, governmental, and public safety subscribers.

II. M-LMS Systems Operating Under Current Rules Coexist Seamlessly with Lawful Part 15 Devices and No Change in Existing Rules Is Necessary to Protect Part 15 Interests.

In the Notice, the Commission proposes to provide M-LMS operators additional flexibility to offer services beyond those permitted by present rules, which require that the M-LMS service to be used principally for vehicular location. Because of concern that a broadening of the service might lead to more intense use of the M-LMS band, the Commission raises the question of possible increased interference to users of Part 15 devices, a concern which the Commission suggests it might seek to remedy by a reduction in the permissible transmitter

power of M-LMS licensees. Teletrac submits that the Commission has no reason to change the requirements for existing grandfathered licensees that elect to continue operating under the existing rules for the M-LMS service.

In the more than ten years that Teletrac has operated M-LMS systems, Teletrac, to its knowledge, has not received a single documented complaint of interference to a Part 15 or licensed radiofrequency device by the Teletrac system. Teletrac's experience has particular significance, given that Teletrac formerly operated M-LMS systems in 26 markets across the nation. Whatever might be the result of operating M-LMS systems in a different mode, a long history of operation shows that M-LMS systems under the current rules do not interfere and have not interfered with Part 15 devices or any licensed service.¹ The Commission has no reason whatsoever to impose any additional restrictions or reductions in transmission power on M-LMS systems that elect to continue operating under the Commission's present rules.

III. The Commission Must Take into Account the Effect of Its Actions in This Docket on Existing M-LMS Service on Which the Public Relies.

The public interest, not to mention common sense and general equity, militate strongly against Commission action that would disrupt a service important for business and public safety that has well served many metropolitan areas for many years without disrupting other lawful users of the spectrum. Subscribers to Teletrac's service include many state and federal government agencies in the public sector and many businesses in the private sector. These subscribers depend upon precise vehicular location reporting for routing, safety, emergency

¹ On the other hand, as Teletrac has found, unlicensed devices often cause interference to M-LMS service. Overwhelmingly, however, serious instances of interference do not arise from lawfully deployed Part 15 devices, even those subject to the unnecessary "safe harbor" provisions of the Part 15 rules. Instead, most interference to M-LMS from unlicensed devices arises, in Teletrac's experience, from Part 15 devices that have been unlawfully modified, from those used or installed contrary to applicable restrictions, or from unlicensed and unapproved radio devices that are altogether unlawful for sale or use under Commission rules.

response, theft prevention and property recovery, and law enforcement. In Teletrac's markets, M-LMS in its current configuration is an established and important niche service.

The Commission should preserve existing M-LMS service and not place that service at risk by preventing grandfathered licensees such as Teletrac from continuing their present service. These grandfathered systems should not be forced to adopt a new, untested, and speculative operating paradigm that may never become either economically competitive or technologically feasible. Holders of unbuilt geographic licenses won at auction for M-LMS systems have nothing to lose and much to gain by rule changes that might allow expanded service on their spectrum at the price of radical changes to M-LMS technical and service rules. These licensees can afford the risk of power reductions and changes affecting the continued acceptability of equipment now approved for use in the service. The Commission can and should address those issues. But, it should do so without requiring system changes for the few existing M-LMS service providers that have substantial investments in their existing facilities, equipment, and networks to provide the specialized service that the Commission's rules presently authorize.

Changes in service rules impose extraordinary costs on niche service providers, and that is particularly true for services like M-LMS, for which no "standard" off-the-shelf equipment is available. Since entering the M-LMS market in the mid-1990s, Teletrac has been through that process once, in meeting the Commission's various deadlines for conversion of the networks and subscribers in each of its then-26 markets to a revised band plan.² That process required the

² Teletrac has consistently considered the M-LMS service as adopted by the Commission to be a niche service to meet important but specialized needs. Teletrac did not participate in the Commission's LMS auctions, both because of the financial pressures from the Commission mandate to shift all of its operating systems and thousands of subscribers in 26 markets to conform to the Commission's changed band plan for M-LMS and because of Teletrac's view that, even at minimum bid levels, LMS spectrum was substantially overpriced in view of the restrictions imposed on the service. As the Commission summarized Teletrac's position,

Teletrac contends the proposed minimum opening bids are not reasonable when compared to completed auctions that employed minimum opening bids. . . . Teletrac argues that it is inconsistent that a service such as LMDS with flexible and exclusive use of frequencies could be valued lower than a service such as LMS.

design, development and deployment of new transmission equipment and related subscriber equipment and an expensive and labor-intensive process of changing over installed customer equipment at the risk of forfeiting authorizations for operating systems by reason of failure to meet applicable deadlines. The Commission's policies ensured that well-functioning systems could deliver the services envisioned by the Commission and more, but the transition was so expensive, disruptive, and complicated that, at the end of the process, only two of the original 14 M-LMS licensees remained.

The necessity for precision in the vehicular location function makes design and implementation of M-LMS systems and changes in existing systems particularly difficult and expensive, as both Teletrac's experience and the inability of any M-LMS auction winner to deploy any service at all over the last seven years amply demonstrate. Yet, in the six-page "small business impact statement" that accompanies the Notice, the Commission although mentioning Teletrac's name, makes no mention whatsoever of the impact of its proposed M-LMS rule changes on the established service that actually is being provided to the public (including many small businesses) under the current rules. For example, the proposal to reduce the permissible transmission power of M-LMS systems, whatever its effect on geographic licensees, would have a devastating effect on grandfathered site-based licensees that, under current rules, may not add fill-in transmission sites to avoid loss of effective service area. The Notice also does not take into account the substantial investment that grandfathered M-LMS

Accordingly, Teletrac contends a reduction is reasonable because LMS is a restricted service whereby licensees are prohibited from using non-vehicular location service except where the primary purpose is to locate vehicles. In addition, Teletrac contends that LMS utilizes equipment that is restricted technologically so that unacceptable levels of interference are not caused and that LMS auction winners do not acquire exclusive rights but must share and accept interference from other services. Teletrac further argues a reduction in minimum opening bids is justified because the high capital costs associated with LMS depend mainly on the geographical area to be covered and not the territorial population.

Public Notice, Auction of LMS Licenses, DA 98-1879 (released September 23, 1998) (footnotes omitted).

providers have made over many years in conforming their operations to the Commission's shifting visions for the M-LMS service. The Commission necessarily must consider existing service and existing investment and the cost and impact of further changes on existing service providers as it considers any changes in its M-LMS rules that would affect currently operating systems.

IV. The Commission Should Expressly Provide That Existing M-LMS Service Providers Have Grandfathered Rights Based on Their Coverage Footprints as of the Application Submission Date for the First M-LMS Auction.

In providing existing M-LMS licensees the alternative to elect out of (or into) the new service rules ultimately adopted in this proceeding, the Commission should provide expressly for the grandfathering of existing site-based M-LMS systems based upon the authorized coverage footprint of current licensees as of January 25, 1999, the short-form filing date of the first M-LMS auction, Auction 21. As of that date, the Commission had on file technical data and coverage contour information that it previously had directed grandfathered licensees to prepare and submit and that it made publicly available as part of auction participants' due diligence. By recognizing that coverage footprint as the basis for grandfathering site-based M-LMS licensees in operation pre-auction, the Commission can provide needed flexibility to relocate transmission sites when currently authorized sites become unavailable, without intruding upon the territory of geographic license holders. Current rules do not expressly spell out the procedures for determining an acceptable alternative site when an existing site becomes unavailable. Also, in urban areas, the 2.0 km standard mentioned in the rules unnecessarily forecloses sites that could be used without adversely affecting any surrounding geographic licensee. As time passes and land use patterns change, additional flexibility for existing operators to replace lost sites will become essential to preserving established M-LMS service.

In addition, by adopting as a site location standard the coverage footprint of a grandfathered system as of the Auction 21 submission date, the Commission would have a means to deal with a grandfathered M-LMS operator that might elect to operate under new service rules that the Commission may adopt in this proceeding. For example, if the Commission were to adopt a lower transmission power standard under its new rules, a standard for assessing permissible fill-in transmission sites for grandfathered site-based operators would be essential to avoid a destructive loss of established service area.

V. Conclusion

For the reasons set forth above, Teletrac urges the Commission to provide expressly that grandfathered M-LMS licensees currently in operation may elect to continue to operate under the M-LMS service rules now in effect, regardless of the rules that the Commission may adopt in this proceeding for what is effectively a very different service. In addition, Teletrac submits that the Commission should provide for grandfathered M-LMS licensees to have grandfathered rights based upon coverage footprints as of the application submission date for the first M-LMS auction, to allow these licensees flexibility in replacing lost transmission sites and in preserving existing and established coverage areas if they elect to operate under rules ultimately adopted in this docket or if flexibility proves necessary to accommodate the future presence of geographically-licensed operators in adjacent areas.

Teletrac's experience shows that the Commission's M-LMS policies provided a solid basis for the vehicular location service that the Commission intended. It would be a mistake for the Commission to force entirely new rules on grandfathered M-LMS providers to address problems that simply do not exist for their established service, which the Commission readily can allow to continue under the existing M-LMS service rules.

Respectfully submitted,

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